

13818
RECORDATION F.O. Filed 1425
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ITEL

Rail Division

Two Embarcadero Center
San Francisco, California 94111
(415) 955-9090
Telex 34234

October 8, 1982

Ms. Agatha Mergenovich, Secretary
Interstate Commerce Commission
Washington, D.C. 20423

2-299A030

OCT 26 1982

Date.....
Fee \$.....

ICC Washington, D. C.

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I.C.C.

New Number

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. Section 11303(a) and the Interstate Commerce Commission's rules and regulations thereunder, I enclose herewith on behalf of Itel Corporation for filing and recordation, four counterparts of the following document: *a primary document*:

Sublease Agreement (the "Sublease") dated July 30, 1982 between the Texas Mexican Railway Company (the "TM") and the Atchison, Topeka and Santa Fe Railway Company.

→ Please cross-index the Sublease with the following document, which was filed on October 17, 1978 at 3:00 P.M. and given recordation No. 9778:

Lease Agreement dated as of March 15, 1978 between Itel Corporation, Rail Division as lessor and TM as lessee.

The names and addresses of the parties to the aforementioned Sublease are:

1. The Texas Mexican Railway Company *Sublessor*
P.O. Box 419
Laredo, Texas 78040
2. The Atchison, Topeka and Santa Fe Railway Company *Sublessee*
80 East Jackson Boulevard
Chicago, Illinois 60604

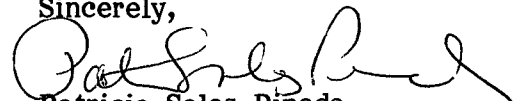
The equipment covered by the Sublease is one hundred eighty-six (186) 70-ton flush deck flatcars, 89'4" in length, AAR mechanical designation FC, currently bearing reporting marks within the series TM 400000 thru TM 400149, (229) which will be remarked to numbers within the series SFLC 901000 thru SFLC 901480.

Ms. Agatha Mergenovich, Secretary
October 8, 1982
Page Two

Also enclosed is a check in the amount of \$60.00 for the required recording fee.

Please stamp all counterparts of the enclosed Sublease with your official recording stamp. You will wish to retain one (1) counterpart of the document for your files; it is requested that the remaining three (3) counterparts be delivered to the bearer of this letter.

Sincerely,



Patricia Salas Pineda
Counsel

PSP:dmm
Enclosures

cc: Michael Walsh, Esq.
Weil, Gotshal & Manges
767 Fifth Avenue
New York, New York 10020

Robert S. Clark, Esq.
Senior Trust Officer
First Security Bank of Utah, N.A.
Corporate Trust Division
79 South Main Street
Salt Lake City, Utah 84111

Sandra Costa
Itel Corporation

Interstate Commerce Commission
Washington, D.C. 20423

10/25/82

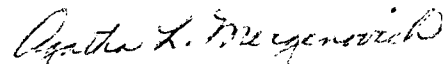
OFFICE OF THE SECRETARY

Patricia Salas Pineda
Itel Rail Division
Two Embarcadero Center
San Francisco, Calif. 94111

Dear **Ms. Salas Pineda:**

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **10/25/82** at **12:40pm**, and assigned re-recording number(s). **13818, 13706-A**

9778-J, 9778-K Sincerely yours,


Agatha L. Mergenovich
Secretary

Enclosure(s)

L-0329
8/4/82

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SUBLEASE AGREEMENT

INTERSTATE COMMERCE COMMISSION

THIS SUBLEASE AGREEMENT (the "Sublease"), made as of this 30th day of July, 1982, between THE TEXAS MEXICAN RAILWAY COMPANY, a Texas corporation, 1200 Washington Street, Laredo, Texas, 78040 as the sublessor ("Sublessor") and THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, a Delaware corporation, 80 East Jackson Boulevard, Chicago, Illinois, 60604, as the sublessee ("Sublessee").

W I T N E S S E T H :

WHEREAS, Sublessor is the lessee and Itel Corporation, Rail Division ("Itel Rail") is the lessor under that certain Lease Agreement dated as of March 15, 1978 (the "Agreement"), pursuant to which Itel Rail leased to Sublessor three hundred (300) TOFC/COFC flatcars bearing the reporting marks TM 400000-400299; and

WHEREAS, Sublessor desires, with the consent of Itel Rail, to sublease one hundred eighty-six (186) of the flatcars to Sublessee.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the parties hereto agree as follows:

1. Scope of Sublease

- A. Sublessor agrees to sublease to Sublessee, and Sublessee agrees to sublease from Sublessor upon the terms and conditions set forth herein, one hundred eighty-six (186) flatcars of the description set forth in the schedule executed by the parties concurrently herewith or hereafter and made a part of this Sublease. The word "Schedule" as used herein includes the Schedule or Schedules executed herewith and any additional Schedules and amendments thereto, each of which when signed by the parties shall be a part of this Sublease. The scheduled items of equipment are hereinafter called collectively the "Flatcars" and each individual scheduled item of equipment is hereinafter called a "Flatcar".
- B. It is the intent of the parties to this Sublease that Sublessor shall at all times be and remain the Sublessor of all Flatcars. Sublessee agrees that it will at no time take any action or file any document which is inconsistent with the foregoing intent and it will take such action and execute such documents as may be necessary to accomplish this intent.

2. Term

- A. This Sublease shall remain in full force until it is terminated as to all of the Flatcars as provided herein. The term of the Sublease with respect to each Flatcar described on each Schedule shall commence at 12:00 P.M. on the date and at the location that such Flatcar is remarked, pursuant to Section 3 hereof, and shall expire as to all the Flatcars described on each Schedule the earlier to occur of (i) the date on which the Agreement is terminated, or (ii) one (1) year from the date on which fifty (50) percent of all the Flatcars on such Schedule are restencilled (the "Initial Sublease Period").

- B. If this Sublease has not been terminated prior to the expiration of the Initial Sublease Period, and no default has occurred, which is continuing, the Sublease shall automatically be extended for an additional period of one (1) year (the "Extended Sublease Period") with respect to all of the Flatcars described on each Schedule, provided, however, that Sublessee may terminate this Sublease at the end of the Initial Sublease Period as to all, but not fewer than all, of the Flatcars described on each Schedule by written notice delivered to Sublessor not less than thirty (30) days prior to the end of the Initial Sublease Period.
- C. During the Extended Sublease Period, Sublessee may terminate this Sublease upon thirty (30) days prior written notice delivered to Sublessor.
- D. For purposes of determining the rent as provided in Section 6 herein, the Termination Date (hereinafter "Termination Date") with respect to each Flatcar shall be defined as the date this Sublease is terminated as to such Flatcar, whether pursuant to the expiration of the Initial Sublease Period or Extended Sublease Period or any early termination hereof.

3. Restencilling and Delivery

- A. Sublessee hereby approves the specifications of the Flatcars delivered to it by Sublessor. Sublessee shall, at Sublessee's expense, restencil the Flatcars with the railroad markings of Sublessee in compliance with all applicable regulations. Concurrent with any restencilling at the commencement of this Sublease, Sublessor and Sublessee shall execute a Certificate of Restencilling (in the form of Exhibit A attached hereto) specifying the previous and current reporting marks of each Flatcar subject to this Sublease. Such Certificate of Restencilling shall become attached to and incorporated into this Sublease. Delivery with respect to a Flatcar shall be deemed to have taken place on the date that such Flatcar is interchanged to any point on the railroad line of Sublessee and accepted by Sublessee in accordance with the Association of American Railroad's (AAR) Interchange Rules ("Delivery Date").
- B. For purposes of determining the rent as provided in Section 6 herein, the Commencement Hour (hereinafter "Commencement Hour"), with respect to each Flatcar, shall be the date and hour such Flatcar is placed for its initial loading on Sublessee's railroad lines.
- C. During the term of this Sublease, Sublessor may, at its expense, replace any or all of the Flatcars with similar equipment upon prior written notice from Sublessor to Sublessee.

4. Record Keeping

- A. Sublessee shall, at its expense, prepare and file, with respect to the Flatcars, all documents relating to the registration, maintenance and record keeping functions as normally performed by a railroad with respect to railroad equipment of the type subject to this Sublease. Such matters

shall include, but are not limited to the following: (i) preparation of AAR documents with respect to the Flatcars; (ii) registration of the Flatcars in the Official Railway Equipment Register and the Universal Machine Language Equipment Register ("UMLER"); and (iii) preparation of any reports as may be required from time to time by the Interstate Commerce Commission ("ICC") and/or any other regulatory agencies with respect to the Flatcars. Sublessee shall register each Flatcar in the UMLER in such a manner that Sublessor, or its agent, is allowed access to any required information with regard to each Flatcar. In addition, Sublessee shall be responsible for any expenses incurred and rent lost as the result of any improper UMLER registration.

- B. Sublessee shall perform all record keeping functions relating to the use of the Flatcars by Sublessee and other railroads, including but not limited to, maintenance and repair, and billing in accordance with the AAR Interchange Rules. All record keeping performed by Sublessee hereunder and all record of payments, charges and correspondence related to the Flatcars shall be separately recorded and maintained by Sublessee in a form suitable for reasonable inspection by Sublessor, or its agent, from time to time during Sublessee's regular business hours. Sublessor, or its agent, shall be entitled to make such inspection at will.

5. Maintenance, Tax and Insurance

- A. Except as otherwise provided herein, Sublessor shall, at its expense, perform or have performed inspections of, (other than interchange inspections,) maintenance and repairs to, and servicing of the Flatcars as shall be necessary to maintain the Flatcars in good operating condition as specified in the AAR Interchange Rules, provided, however, that such repair, maintenance and servicing shall be performed at Sublessee's expense in the event it was occasioned by the fault of Sublessee, or arises in those instances in which the AAR Interchange Rules would assign responsibility to Sublessee for the loss, damage, destruction or liability requiring such repair, maintenance or servicing. Sublessee shall inspect all Flatcars interchanged to it to insure that such Flatcars are in good working order and condition and Sublessee shall be liable to Sublessor for any repairs required for damage not noted at the time of interchange.
- B. Sublessor shall also make or have made, at its expense, all alterations, modifications or replacement of parts as shall be necessary to maintain the Flatcars in good operating condition. Sublessee may make running repairs, as defined in Exhibit B attached hereto, to facilitate continued immediate use of each Flatcar, but shall not otherwise make or cause to have made any repairs, alterations, improvements, or additions to any Flatcar. Sublessee shall be liable to Sublessor for any revenues lost due to any unauthorized repair, alterations, improvement or addition. Title to any such alteration, improvement or addition shall be and remain with IteI Rail.
- C. As long as this Sublease shall remain in effect, Sublessee shall be responsible for the Flatcars (i) while in Sublessee's possession or control, and (ii) in the same manner that Sublessee is responsible under Interchange

Rules for similar equipment not owned by Sublessee. Sublessee shall, at all times while this Sublease is in effect, at its own expense, cause to be carried and maintained (a) physical loss or damage insurance with respect to the Flatcars while on Sublessee's tracks, provided, however, that the Sublessee may self-insure such Flatcars to the extent it self-insures equipment similar to the Flatcars and to the extent such self-insurance is consistent with prudent industry practice, and (b) public liability insurance with respect to third party personal injury and property damage, in each case said insurance shall be in such amounts and for such risks and with such insurance companies as are consistent with prudent industry practice; provided, however, that Sublessee may self-insure against such liability to the extent such self-insurance is consistent with prudent industry practice, but in any event such insurance shall be at least comparable to insurance coverage carried by the Sublessee in respect of similar equipment owned or leased by it. Sublessee shall furnish to Itel Rail concurrently with the execution hereof certificates evidencing the aforesaid insurance. All insurance shall be taken out in the name of Sublessee and shall name Itel Rail as additional named insured, and shall also list Itel Rail as loss-payee on the property insurance policies. Said policies shall provide that Itel Rail shall receive thirty (30) days prior written notice of any material changes in coverage or cancellation thereof. Sublessor may, at its option, re-evaluate the insurance coverage provided by Sublessee and request additional coverage as deemed necessary.

- D. Sublessee assumes responsibility for and agrees to pay, protect, save, keep harmless and indemnify Sublessor and its successors against taxes, fees, levies, impost, duties or withholdings of any nature together with penalties, fines or interest thereon (taxes) imposed on, incurred by or asserted against: (1) the Flatcars, (2) lease, sublease or delivery of the Flatcars, (3) revenues earned by the Flatcars, including but not limited to mileage charges and/or car hire revenues, during the term of this Sublease, except taxes on income and franchise taxes imposed on Sublessor. Sublessee shall comply with all state and local laws requiring filing of ad valorem tax returns associated with the Flatcars and shall provide Sublessor with a photostatic copy of the receipted ad valorem tax bill within thirty (30) days after receipt.
- E. In the event that any or all of the Flatcars require storage on Sublessee's railroad lines at any time, Sublessee shall be responsible for the following: (1) all reasonable transportation costs incurred to move the Flatcars to such storage location; (2) all reasonable transportation costs incurred in removing such Flatcars from the storage location; and (3) the actual costs incurred for the storage of each Flatcar for up to one hundred eighty (180) days unless this Sublease has been terminated prior to the expiration of the Initial Sublease Period, or prior to the expiration of any Extended Sublease Period. If Sublessor pays for any costs for which Sublessee is responsible under this Section, Sublessee shall reimburse Sublessor for such costs within thirty (30) days from Sublessee's receipt of Sublessor's invoice.

6. Rent

A. Definitions

- (i) "Fixed Rent" shall be \$0.458 per Flatcar for each hour such Flatcar is on Sublessee's railroad line.
- (ii) "First Rent Date" shall be the fifteenth (15th) day of the month immediately following the calendar month in which the Commencement Hour (as defined in Section 3.B.) occurs.
- (iii) "Last Rent Date" shall be the fifteenth (15th) day of the month immediately following the calendar month in which the "Termination Date" (as defined in Section 2.D.) occurs.
- (iv) "Revenues" shall be the total revenues earned and due from other railroad companies for the use or handling of the Flatcars including, but not limited to, per diem and mileage, whether or not collected and received by Sublessee and without regard to any claimed abatement, reduction or offset. Upon the occurrence of any such abatement, reduction or offset, Sublessee shall, within thirty (30) days of Sublessor's request, reimburse Sublessor for such amounts.

B. Sublessee shall pay to Sublessor during the Term of this Sublease as rent for each Flatcar the following:

- (i) On the First Rent Date, an amount equal to the Fixed Rent multiplied by the number of on-line hours from and including the Commencement Hour to and including the last hour of the month in which such Commencement Hour occurs;
- (ii) For the fifteenth (15th) day of each month thereafter, to and including the calendar month in which the Termination Date occurs, an amount equal to the Fixed Rent multiplied by the number of on-line hours in the prior month;
- (iii) On the Last Rent Date, an amount equal to the Fixed Rent multiplied by the number of on-line hours from and including the first hour of the month in which the Termination Date occurs to and including the last hour of such Termination Date; and
- (iv) Within ninety (90) days after the end of each Service Month (as hereinafter defined), an amount equal to the Revenues earned by the Flatcars for such Service Month. For the purposes hereof, Service Month shall be defined as the calendar month in which the Flatcars earn Revenues under the terms of the Sublease.

C. (i) Sublessee shall provide Sublessor with such records as may be required to substantiate the following: (i) the date and hour each Flatcar is placed for loading on Sublessee's railroad lines pursuant to Section 3.B. and (ii) the date each Flatcar is returned to Sublessor pursuant to Section 9.

- (ii) Upon Sublessor's request, Sublessee shall provide Sublessor with any records of Sublessee, including car hire summaries and detailed reports, as Sublessor deems necessary to substantiate Revenues and Revenues actually received by Sublessee. Further, Itel Rail, as Sublessor's agent, shall be entitled to visit Sublessee at any time during normal business hours to review any and all records required to determine Revenues and Revenues actually received by Sublessee.
- D. In the event either damage or destruction of a Flatcar has been reported in accordance with Rule 107 of the AAR Field Manual of Interchange Rules and Rules 7 and 8 of the AAR Code of Car Hire Rules and Interpretations - Freight, said destroyed Flatcar shall be removed from the rental calculations of this Sublease on the date car hire ceased as set forth in the aforementioned Rules 7 and 8.
- E. Sublessor desires and requests that Sublessee pay directly to Itel Rail any amounts due Sublessor under Section 6.B. hereunder so as to defray all of Sublessor's obligation under the Agreement with Itel Rail.

7. Possession and Use

- A. So long as Sublessee shall not be in default under this Sublease, Sublessee shall be entitled to the possession, use and quiet enjoyment of the Flatcars in accordance with the terms of this Sublease and in the manner and to the extent the Flatcars are customarily used in the railroad freight business as set forth in Subsection 7.B. However, Sublessee's rights shall be subject and subordinate to the rights of any owner or secured party under any financing agreement entered into by Itel Rail in connection with the acquisition of the Flatcars which are the subject of this Sublease. Accordingly, following notice to Sublessee from any such secured party or owner that an event of default has occurred at any time (including at a time prior to the effective date of this Sublease), and is continuing under such financing agreement, such party may require either or both that rentals and other sums due hereunder shall be paid directly to such party, and that the Flatcars immediately be returned to such party. Sublessee agrees that to the extent it has physical possession and can control use of the Flatcars, the Flatcars shall at all times be used and operated under and in compliance with the laws of the jurisdiction in which the same are operated and in which the same may be located and in compliance with all lawful acts, rules and regulations and orders of any governmental bodies or officers having power to regulate or supervise the use of such property, except that either Sublessor or Sublessee may in good faith and by appropriate proceedings, contest the application of any such act, rule, regulation or order in any reasonable manner at the expense of the contesting party.
- B. The use of the Flatcars shall be limited to use by a rail common carrier and the Flatcars shall always bear the reporting marks of a rail common carrier. During the term of this Sublease, the Flatcars shall at all times be registered in the Official Railway Equipment Register and the UMLER.

- C. Sublessee will not directly or indirectly create, incur, assume, or suffer to exist any mortgage, pledge, lien, charge, encumbrance, or other security interest or claim arising through it, on, or with respect to the Flatcars, or any interest therein or in this Sublease or Schedule thereto. Sublessee will promptly, at its expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance, security interest, or claim if the same shall arise at any time.

8. Default

- A. The occurrence of any of the following events shall be an event of default:
- (i) The nonpayment by Sublessee of any sum required herein to be paid by Sublessee within thirty (30) days after the date any such payment is due;
 - (ii) The breach by Sublessee of any other term, covenant, or condition of this Sublease, which is not cured within thirty (30) days thereafter;
 - (iii) The filing by or against the Sublessee of any petition or the initiation by or against the Sublessee of any proceeding: (a) for any relief which includes, or might result in, any modification of the obligations of the Sublessee hereunder; or (b) under any bankruptcy, reorganization, insolvency, moratorium or other laws relating to the relief of debtors, the readjustment of indebtedness, financial reorganization, arrangements with creditors, compositions of indebtedness, or extensions of indebtedness.
 - (iv) The subjection of any of Sublessee's property to any levy, seizure, assignment, application or sale for or by any creditor or governmental agency.
- B. Upon the occurrence of any event of default hereunder, without limiting Sublessor's rights and remedies otherwise provided by law which shall be available to Sublessor in addition to the following rights and remedies (no right or remedy of Sublessor being exclusive but all such rights and remedies being available at all times to Sublessor and Sublessor in any case being entitled to recover all costs, expenses and attorneys' fees incurred by Sublessor in enforcing its rights and remedies hereunder), Sublessor may, at its option, terminate this Sublease and/or may
- (i) Proceed by any lawful means to enforce performance by Sublessee of this Sublease or to recover damages for a breach thereof, and/or
 - (ii) By notice in writing to Sublessee, terminate Sublessee's right of possession and use of the Flatcars, whereupon all right and interest of Sublessee in the Flatcars shall terminate; and thereupon Sublessor may enter upon any premises where the Flatcars may be located and take possession of the Flatcars and henceforth hold, possess and enjoy the same free from any right of Sublessee. Sublessor

shall, in addition, have the right to recover from Sublessee any and all rental amounts which under the terms of this Sublease may then be due or which may have accrued to that date, together with Sublessor's costs and expenses, including reasonable attorneys' fees incurred in securing such enforcement hereof.

9. Termination

- A. Upon the Termination Date (as defined in Section 2.D.) of this Sublease with respect to a Flatcar, Sublessee, at its expense, shall promptly move such Flatcar to to a shop on Sublessee's railroad tracks and shall promptly notify Sublessor of such shop. Subsequent procedures, shall be as follows:

Sublessee shall restencil the Flatcars in accordance with Sublessor instructions and return the Flatcars in the same conditions as originally received by Sublessee, normal wear and tear excepted. Restencilling, with respect to each Flatcar, shall include the following: (a) removal of existing reporting marks and all company logos of Sublessee; (b) complete cleaning subsequent to the removal of reporting marks; (c) application of new reporting marks as designated by Sublessor; and (d) any transportation involved in moving each Flatcar to and from a suitable work area to perform the restencilling set forth in this Section. Sublessee shall not remove Sublessee's railroad marks from any Flatcar without the prior written consent of Sublessor. Subsequent to the completion of the restencilling of the Flatcars, Sublessee shall, upon Sublessor's request and at Sublessor's sole option, and at Sublessee's expense, deliver the Flatcars to any interchange points designated by Sublessor on Sublessee's railroad tracks and/or provide outbound loads for the Flatcars. Prior to such delivery of the Flatcars, and at ITEL Rail's option, Sublessee shall provide storage for the Flatcars, as set forth in Section 9.B.

- B. In the event of expiration of the Initial Sublease Period or any Extended Sublease Period, or termination by Sublessee of this Sublease prior to the expiration of the Initial Sublease Period or any Extended Sublease Period, the restencilling and storage of each Flatcar set forth in Section 9.A. shall be at Sublessee's expense; provided, however, that Sublessee shall be responsible for the cost of storage of each Flatcar for up to one hundred eighty (180) days following the Termination Date only. In the event of termination by Sublessor of this Sublease prior to the expiration of the Initial Sublease Period or any Extended Sublease Period, the restencilling and storage of each Flatcar set forth in Section 9.A. shall be at Sublessor's expense.
- C. In the event that any Flatcar is not returned to Sublessor on or before the Termination Date, all of Sublessee's obligations under this Sublease, shall remain in full force and effect, with respect to all Flatcars which have not been returned by Sublessee to Sublessor, until such Flatcars are returned to Sublessor as set forth in Section 9.A. herein.

10. Indemnities

- A. SUBLESSEE SHALL DEFEND, INDEMNIFY AND HOLD SUBLESSOR HARMLESS FROM AND AGAINST ANY LOSS, DAMAGE, DESTRUCTION OR LIABILITY WITH RESPECT TO THE FLATCARS WHICH IS OCCASIONED BY THE FAULT OF SUBLESSEE OR WHICH OCCURS WHILE THE FLATCARS ARE IN SUBLESSEE'S POSSESSION OR CONTROL OR ARISES IN THOSE INSTANCES WHEN THE AAR INTERCHANGE RULES WOULD ASSIGN RESPONSIBILITY TO SUBLESSEE FOR LOSS, DAMAGE, DESTRUCTION OR LIABILITY.
- B. SUBJECT TO SECTION 10.A., AND EXCEPT FOR THOSE CLAIMS, CAUSES OF ACTION, DAMAGES, LIABILITIES, COSTS OR EXPENSES FOR WHICH SUBLESSEE SHALL BE RESPONSIBLE AS SET FORTH HEREIN, SUBLESSOR WILL DEFEND, INDEMNIFY AND HOLD SUBLESSEE HARMLESS AGAINST ANY AND ALL LOSS, DAMAGE OR DESTRUCTION OF OR TO THE FLATCARS, USUAL WEAR AND TEAR EXCEPTED, AND ANY CLAIM, CAUSE OF ACTION, DAMAGE, LIABILITY, COST OR EXPENSE WHICH MAY BE ASSERTED AGAINST SUBLESSEE WITH RESPECT TO THE FLATCARS, INCLUDING WITHOUT LIMITATION, THE LEASING OR RETURN OF THE FLATCARS, USE, MAINTENANCE, REPAIR, REPLACEMENT OR OPERATION OF THE FLATCARS OR THE CONDITION OF THE FLATCARS (WHETHER DEFECTS, IF ANY, ARE LATENT OR ARE DISCOVERABLE BY SUBLESSOR OR SUBLESSEE).

11. Representations, Warranties and Covenants

Sublessee represents, warrants and covenants that:

- A. Sublessee is a corporation duly organized, validly existing and in good standing under the laws of the state where it is incorporated and has the corporate power, authority and, insofar as is material to Sublessor's rights under this Sublease, is duly qualified and authorized to do business wherever necessary, to carry out its present business and operations and to own or hold under lease its properties and to perform its obligations under this Sublease.
- B. The entering into and performance of this Sublease will not violate any judgment, order, law or regulation applicable to Sublessee, or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of Sublessee or on the Flatcars pursuant to any instrument to which Sublessee is a party or by which it or its assets may be bound.
- C. There is no action or proceeding pending or threatened against Sublessee before any court or administrative agency or other governmental body which might result in any material adverse effect on the business, properties and assets, or conditions, financial or otherwise, of Sublessee such that Sublessee's ability to perform its obligations hereunder would be materially and adversely affected.

- D. There is no fact which Sublessee has not disclosed to Sublessor in writing, nor is Sublessee a party to any agreement or instrument or subject to any charter or other corporate restriction which, so far as the Sublessee can now reasonably foresee, will individually or in the aggregate materially adversely affect the business, condition or any material portion of the properties of the Sublessee or the ability of the Sublessee to perform its obligation under this Sublease.

12. Inspection

Sublessor or its agent shall at any time during normal business hours have the right to enter the premises where the Flatcars may be located for the purpose of inspecting and examining the Flatcars to insure Sublessee's compliance with its obligations hereunder.


13. Miscellaneous

- A. This Sublease shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns, provided, however, that Sublessee may not assign this Sublease or any of its rights hereunder or sublease any Flatcars to any party, and any purported assignment or sublease in violation hereof shall be void.
- B. Both parties agree to execute the documents contemplated by this transaction and such other documents as may be required in furtherance of any financing agreement entered into by Sublessor or its assignees in connection with the acquisition or financing or use of the Flatcars in order to confirm the financing parties' interest in and to the Flatcars, and to confirm the subordination provisions contained in Section 7 of this Sublease.
- C. It is expressly understood and agreed by the parties hereto that this Sublease constitutes a lease of the Flatcars only and no joint sale or venture or partnership is being created. Notwithstanding the calculation of rental payments, nothing herein shall be construed as conveying to Sublessee any right, title or interest in the Flatcars, except as a Sublessee only.
- D. No failure or delay by Sublessor shall constitute a waiver or otherwise affect or impair any right, power or remedy available to Sublessor nor shall any waiver or indulgence by Sublessor or any partial or single exercise of any right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.
- E. This Sublease shall be governed by and construed according to the laws of the State of California.
- F. Sublessee shall notify ITEL Rail as soon as is practicable of any accident connected with the malfunctioning or operation of the Flatcars, including in such report, where available, the time, place and nature of the accident and the damage caused.


- G. Sublessee shall also notify Sublessor in writing within five (5) days after any attachment, tax lien or other judicial process shall attach to any Flatcar. Sublessee shall furnish to Sublessor promptly upon its becoming available, a copy of its annual report submitted to the ICC and, when requested, copies of any other income or balance sheet statements required to be submitted to the ICC.
- H. All notices hereunder shall be in writing and shall be deemed given when delivered personally or when deposited in the United States mail, postage prepaid, certified or registered, addressed to the president of the other party at the address set forth herein.
- I. The obligations and liabilities of Sublessor and Sublessee hereunder shall survive the expiration or earlier termination of this Sublease.
- J. This Sublease represents the entire Sublease. This Sublease shall not be modified, altered, or amended, except by an agreement in writing signed by the parties."

IN WITNESS WHEREOF, the parties hereto have executed this Sublease as of the day and year first herein written.

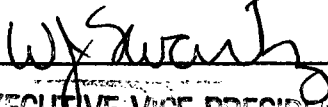
THE TEXAS MEXICAN
RAILWAY COMPANY

By: 
Title: Chairman & Chief Executive Officer
Date: August 13, 1982

ACKNOWLEDGEMENT AND CONSENT:


ITel Corporation, Rail Division
Date: 9-15-82

THE ATCHISON, TOPEKA AND
SANTA FE RAILWAY COMPANY

By: 
Title: EXECUTIVE VICE PRESIDENT
Date: SEP 2 1982

FORM APPROVED


General Attorney
MWB

L-0329

EXHIBIT A

CERTIFICATE OF RESTENCILLING

<u>Previous Flatcar Marks</u>	<u>Current Flatcar Marks</u>	<u>Date of Restencilling</u>	<u>Previous Flatcar Marks</u>	<u>Current Flatcar Marks</u>	<u>Date of Restencilling</u>
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The Texas Mexican Railway Company
Authorized Representative



The Atchison, Topeka and
Santa Fe Railway Company

EXHIBIT B

Running Repairs

Angle Cocks
Air Hose
Train Line
Operating Levers in Brackets
Sill Steps
Grab Irons
Brake Shoes
Brake Shoe Keys
Brake Connecting Pin
Brake Beam Wear Plates
In-Date-Test
Air Brakes
Hand Brakes
Truck Springs
Lube of Hitches
Cotter Keys
Roller Bearing Adapters
Air Hose Supports
Wheels
Knuckles
Knuckle Pins
Slack Adjusters
Pedestal Locks
Couplers
End of Car Cushioning
Coupler Carriers
Center Plates

STATE OF TEXAS)
COUNTY OF WEBB) ss:

On this 13th day of August, 1982, before me personally appeared A. R. Ramos, to me personally known, who being by me duly sworn says that such person is Chairman & Chief Executive Ofc. of The Texas Mexican Railway Company, that the foregoing Sublease Agreement was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


Sandra Sue Webber
Notary Public

STATE OF ILLINOIS)
COUNTY OF COOK) ss:

On this 2nd day of September, 1982, before me personally appeared W. J. Swartz, to me personally known, who being by me duly sworn says that such person is Executive Vice President of The Atchison, Topeka and Santa Fe Railway Company, that the foregoing Sublease Agreement was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


J. H. Arreguin
Notary Public

L-0329

EQUIPMENT SCHEDULE NO. 1

The Texas Mexican Railway Company hereby subleases the following Flatcars to The Atchison, Topeka and Santa Fe Railway Company subject to the terms and conditions of that certain Sublease Agreement dated as of July 30, 1982.

A.A.R. Mech. Desig.	Description	Numbers	Length	Dimensions		Doors Width	No. of Cars
				Inside Width	Height		
FC	70-Ton Flush Deck Flatcar	SFLC 901000- 901480 (N.S.)	89'4"	N/A	N/A	N/A	186

THE TEXAS MEXICAN
RAILWAY COMPANY

BY: 

TITLE: Chairman & Chief Executive Officer

DATE: August 13, 1982

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY

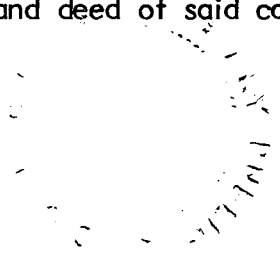
BY: 

TITLE: EXECUTIVE VICE PRESIDENT

DATE: SEP 2 1982


STATE OF TEXAS)
COUNTY OF WEBB) ss:

On this 13th day of August, 1982, before me personally appeared
A. R. Ramos, to me personally known, who being
by me duly sworn says that such person is Chairman & Chief Executive Ofc. of The
Texas Mexican Railway Company, that the foregoing Equipment Schedule No. 1 was
signed on behalf of said corporation by authority of its board of directors, and such
person acknowledged that the execution of the foregoing instrument was the free act
and deed of said corporation.


Sandra Sue Webber
Notary Public

STATE OF ILLINOIS)
COUNTY OF COOK) ss:

On this 2nd day of September, 1982, before me personally appeared
W. J. SWARTZ, to me personally known, who being
by me duly sworn says that such person is Executive Vice President of The
Atchison, Topeka and Santa Fe Railway Company, that the foregoing Equipment Schedule
No. 1 was signed on behalf of said corporation by authority of its board of directors,
and such person acknowledged that the execution of the foregoing instrument was the
free act and deed of said corporation.


J. H. Arreguin
Notary Public

ITEL RAIL

55 Francisco
San Francisco, California 94133
(415) 955-9090
Telex 34234

November 17, 1983

RECORDATION NO. 13818 Filed 1428

DEC 7 1983 -9 05 AM

INTERSTATE COMMERCE COMMISSION

Ms. Agatha Mergenovich, Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Ms. Mergenovich:

This is to request that you cross-index the Consolidated, Amended, and Restated Equipment Trust Agreement, dated as of January 1, 1982, which was filed under I.C.C. Recordation No. 14165, on September 20, 1983 at 3:00 p.m., with the following documents:

1. Lease between Itel Corporation, Rail Division and Apalachicola Northern Railroad, dated January 25, 1977 and filed under I.C.C. Recordation No. 8796, on April 27, 1977 at 12:45 p.m.
2. Lease between Itel Corporation, Rail Division and Arcata and Mad River Railroad, dated July 10, 1978, and filed under I.C.C. Recordation No. 10034, on January 19, 1979 at 2:10 p.m.
3. Lease between Itel Corporation, Rail Division and Atchison, Topeka and Santa Fe Railway Co., dated May 14, 1982, and filed under I.C.C. Recordation No. 13706, on July 26, 1982 at 1:45 p.m.
4. Lease between Itel Corporation, Rail Division and New Orleans Public Belt Railway, dated October 26, 1978, and filed under I.C.C. Recordation No. 10033, on January 19, 1979 at 2:10 p.m.
5. Lease between Itel Corporation, Rail Division and Atchison, Topeka and Santa Fe Railway Co., dated July 30, 1982, and filed under I.C.C. Recordation No. 13818, on October 26, 1982 at 12:40 p.m.

6. Lease between Itel Corporation, Rail Division and Cadiz Railroad, dated November 10, 1976, and filed under I.C.C. Recordation No. 8654, on January 10, 1977 at 2:05 p.m.
7. Lease between Itel Corporation, Rail Division and Camino, Placerville and Lake Tahoe Railroad Co., dated February 9, 1977, and filed under I.C.C. Recordation No. 8798 on April 27, 1977
8. Lease between Itel Corporation, Rail Division and Crab Orchard and Egyptian Railroad, dated June 21, 1978, and filed under I.C.C. Recordation No. 9936, on December 22, 1978 at 3:55 p.m.
9. Lease between Itel Corporation, Rail Division and Detroit, Toledo and Ironton Railway Co., dated March 10, 1981, and filed under I.C.C. Recordation No. 13077, on April 30, 1981 at 2:25 p.m.
10. Lease between Itel Corporation, Rail Division and East Camden and Highland, dated April 26, 1978, and filed under I.C.C. Recordation No. 9756, on October 11, 1978 at 2:45 p.m.
11. Lease between Itel Corporation, Rail Division and Green Bay and Western Railroad Company, dated October 21, 1981, and filed under I.C.C. Recordation No. 13554, on February 18, 1982 at 2:40 p.m.
12. Lease between Itel Corporation, Rail Division and Green Bay and Western Railroad Company, dated March 8, 1979, and filed under I.C.C. Recordation No. 10362, on May 10, 1979 at 2:00 P.m.
13. Lease between Itel Corporation, Rail Division and Maine Central Railroad Company, dated March 22, 1982, and filed under I.C.C. Recordation No. 13664, on June 16, 1982 at 10:10 a. m.
14. Lease between Itel Corporation, Rail Division and Maine Central Railroad Company, dated April 11, 1980, and filed under I.C.C. Recordation No. 11899, on June 11, 1980 at 11:25 a.m.
15. Lease between Itel Corporation, Rail Division and New Orleans Public Belt Railway, dated June 17, 1977, and filed under I.C.C. Recordation No. 8904, on July 26, 1977 at 9:15 a.m.

16. Lease between Itel Corporation, Rail Division and Port Huron and Detroit Railroad Co., dated February 22, 1977, and filed under I.C.C. Recordation No. 8799 on April 27, 1977 at 12:45 p.m.
17. Lease between Itel Corporation, Rail Division and Rahway Valley Railroad, dated September 19, 1978, and filed under I.C.C. Recordation No. 10111, on February 14, 1979 at 12:30 p.m.
18. Sublease between Texas Mexican Railroad Co. and Soo Line Railroad, dated April 11, 1983, and filed under I.C.C. Recordation No. 14066, on June 21, 1983 at 3:00 p.m.
19. Lease between Itel Corporation, Rail Division, and Soo Line Railroad Co., dated February 17, 1983, and filed under I.C.C. Recordation No. 14002 on April 11, 1983 at 1:05 p.m.
20. Lease between Itel Corporation, Rail Division and Texas Mexican Railroad Co., dated March 15, 1978, and filed under I.C.C. Recordation No. 9778, on October 17, 1978 at 3:30 p.m.
21. Lease between Itel Corporation, Rail Division and Toledo, Peoria and Western Railroad Co., dated September 10, 1980, and filed under I.C.C. Recordation No. 12314 on October 16, 1980 at 2:40 p.m.
22. Lease between Itel Corporation, Rail Division and Valley and Siletz Railroad, dated July 26, 1978, and filed under I.C.C. Recordation No. 10032 on January 19, 1979 at 2:10 p.m.
23. Lease between Itel Corporation, Rail Division and Providence and Worcester Co., dated March 13, 1978, and filed under I.C.C. Recordation No. 9924, on December 19, 1978 at 2:45 p.m.
24. Assignment between Providence and Worcester Company and Warwick Railway Corp., dated April 24, 1980, and filed under I.C.C. Recordation No. 9924-E, on October 17, 1980 at 12:45 p.m.
25. Lease between Itel Corporation, Rail Division and Arkansas and Louisiana Missouri Railroad, dated June 14, 1977, and filed under I.C.C. Recordation No. 9049, on October 21, 1977 at 1:05 p.m.

26. Lease between Itel Corporation, Rail Division and Atlanta and St. Andrews Bay Railway Co., dated May 5, 1978, and filed under I.C.C. Recordation No. 9703, on September 22, 1978 at 2:15 p.m.

27. Lease between Itel Corporation, Rail Division and Greenville and Northern Railroad Co., dated August 6, 1976, and filed under I.C.C. Recordation No. 9102, on November 25, 1977 at 1:15 p.m.

28. Lease between Itel Corporation, Rail Division and Marinette, Tomahawk and Western Railroad Co., dated December 23, 1977, and filed under I.C.C. Recordation No. 9406, on May 26, 1978 at 2:30 p.m.

29. Lease between Itel Corporation, Rail Division and North Louisiana and Gulf Railroad Co., dated July 21, 1977, and filed under I.C.C. Recordation No. 9073, on November 10, 1977 at 2:20 p.m.

30. Lease between Itel Corporation, Rail Division and Escanaba and Lake Superior Railroad Company, dated December 22, 1976, and filed under I.C.C. Recordation No. 8653, on January 10, 1977 at 2:20 p.m.

31. Lease between SSI Rail Corp. and Lake Erie, Franklin and Clarion Railroad, dated January 3, 1977, and filed under I.C.C. Recordation No. 8668, on January 21, 1977 at 2:30 p.m.

32. Lease between SSI Rail Corp. and Minnesota, Dakota and Western Railroad, dated July 26, 1978, and filed under I.C.C. Recordation No. 10129, on February 22, 1979 at 11:40 a.m.

33. Lease between SSI Rail Corp. and Pearl River Valley Railroad Co., dated March 24, 1976, and filed under I.C.C. Recordation No. 8487-A, on August 27, 1976 at 1:30 p.m.

34. Lease between SSI Rail Corp. and Sierra Railroad Co., dated September 27, 1978, and filed under I.C.C. Recordation No. 10152, on February 26, 1979 at 2:30 p.m.

35. Sublease between McCloud River Railroad Co. and Camino, Placerville and Lake Tahoe Railroad Co., dated January 24, 1980 and filed under I.C.C. Recordation No. 8819-G, on May 5, 1980 at 3:15 p.m.

36. Lease between SSI Rail Corp., and McCloud River Railroad Co., dated April 20, 1977, and filed under I.C.C. Recordation No. 8819, on May 11, 1977 at 1:15 p.m.
37. Lease between SSI Rail Corp., and City of Prineville Railway Co., dated April 26, 1977, and filed under I.C.C. Recordation No. 8896 on July 20, 1977.
38. Lease between Itel Corporation, Rail Division and Kyle Railways, Inc., dated February 17, 1982, and filed under I.C.C. Recordation No. 13666, on June 17, 1982 at 10:50 a.m.
39. Sublease between Kyle Railways, Inc. and Natchez Trace Railroad, dated February 18, 1982, and filed under I.C.C. Recordation No. 13666-B, on June 17, 1982 at 10:50 a.m.
40. Sublease between McCloud River Railroad Co. and Sierra Railroad Co., dated August 29, 1980, and filed under I.C.C. Recordation No. 8819-N, on September 16, 1980 at 1:35 p.m.
41. Lease between SSI Rail Corp. and Terminal Railway of Alabama, dated April 4, 1977, and filed under I.C.C. Recordation No. 8797, on April 27, 1977 at 12:45 p.m.
42. Lease between SSI Rail Corp. and Toledo, Peoria and Western Railroad Co., dated January 12, 1977, and filed under I.C.C. Recordation No. 8676, on January 24, 1977 at 2:45 p.m.
43. Lease between Itel Corp. and Ashley, Drew and Northern Railway Co., dated March 29, 1977, and filed under I.C.C. Recordation No. 8837 on May 27, 1977.
44. Lease between SSI Rail Corp. and Corinth and Counce Railroad Company, dated April 29, 1977, and filed under I.C.C. Recordation No. 8838, on May 27, 1977 at 1:45 p.m.
45. Lease between Itel Corporation, Rail Division and Green Bay and Western Railroad Co., dated April 22, 1981, and filed under I.C.C. Recordation No. 13073, on April 30, 1981 at 10:50 a.m.
46. Lease between Itel and Meridian and Bigbee Railroad Company, dated June 1, 1977, and filed under I.C.C. Recordation No. 9072, on November 10, 1977 at 2:20 p.m.

47. Lease between Itel Rail and Apache Railway, dated June 1, 1976, and filed under I.C.C. Recordation No. 8709, on February 23, 1977 at 11:40 a.m.
48. Lease between Itel Corporation, Rail Division and Clarendon & Pittsford Railroad Co., dated October 18, 1976, and filed under I.C.C. Recordation No. 8658, on January 12, 1977 at 1:45 p.m.
49. Lease between Itel Corporation, Rail Division and FMC/Chemical Group, dated December 3, 1976, and filed under I.C.C. Recordation No. 8809-A, on May 11, 1977 at 1:15 p.m.
50. Lease between SSI Rail Inc., and Green Mountain Railroad Co., dated January 2, 1976, and filed under I.C.C. Recordation No. 9050, on October 21, 1977 at 1:05 p.m.
51. Lease between Itel Corporation, Rail Division and Hartford & Slocumb Railway Co., dated July 1, 1975, and filed under I.C.C. Recordation No. 9168, on January 9, 1978 at 2:05 p.m.
52. Lease between Itel Corporation, Rail Division and Lake Erie, Franklin and Clarion Railroad, dated January 3, 1977, and filed under I.C.C. Recordation No. 8853-A, on June 1, 1977 at 1:10 p.m.
53. Lease between Itel Corporation, Rail Division and McCloud River Railroad, dated April 20, 1983, and filed under I.C.C. Recordation No. 14029, on May 27, 1983 at 1:40 p.m.
54. Lease between Itel Corporation, Rail Division and Mississippi Export Railway Co., dated April 25, 1978 and filed under I.C.C. Recordation No. 9460, on June 27, 1978 at 8:50 a.m.
55. Lease between Itel Corporation, Rail Division and Sabine River and Northern Railroad Co., dated December 23, 1977, and filed under I.C.C. Recordation No. 9407, on May 26, 1978 at 2:30 p.m.
56. Lease between Itel Corporation, Rail Division and Valdosta Southern Railway Co., dated March 26, 1976, and filed under I.C.C. Recordation No. 8343-A on May 25, 1976 at 10:45 p.m.

Ms. Agatha Mergenovich
November 17, 1983
Page Seven

57. Lease between Itel Corporation, Rail Division and Valdosta Southern Railway Co., dated December 23, 1977, and filed under I.C.C. Recordation No. 9408, on May 26, 1978 at 2:30 p.m.

58. Lease between Itel Corporation, Rail Division and Vermont Railway Co., dated December 4, 1975, and filed under I.C.C. Recordation No. 9279 on March 13, 1978 at 2:20 p.m.

Enclosed is a check in the amount of \$580.00 covering the appropriate cross-indexing fees. If you have any questions please feel free to contact me at (415) 955-0547.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Patricia Salas Pineda', written in a cursive style.

Patricia Salas Pineda
Counsel

PSP:dmm
Enclosures

ITEL RAIL CORPORATION
INDEX TO CROSS-INDEXING
REQUESTED
IN LETTER OF NOVEMBER 17, 1983

Each ICC Recordation No. listed below to be cross-indexed to (1) Recordation No. 14165, and (2) all Recordation Nos. listed below to be cross-indexed under Recordation No. 14165.

<u>ICC RECORDATION NO.</u>	<u>PARAGRAPH NO. IN LETTER OF NOVEMBER 17, 1983</u>
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8654	6
8658	48
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8676	42
8709	47
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8797	41
8798	7
8799	16
8809-A	49
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<u>ICC RECORDATION NO.</u>	<u>PARAGRAPH NO. IN LETTER OF NOVEMBER 17, 1983</u>
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9050	50
9072	46
9073	29
9102	27
9168	51
9279	58
9408	57
9406	28
9407	55
9460	54
9703	26
9756	10
9778	20
9924	23
9924-E	24
9936	8
10032	22
10033	4
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13554	11
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13666-B	39
13706	3
13818	5
14002	19
14029	53
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